

REMARKS

I. Status of the Claims

Claims 1-15 are pending

Claim 6 stands rejected under 35 U.S.C. §112, Second Paragraph

Claims 1-15 stand rejected under 35 U.S.C. §103(a)

II. Claim Rejection Under 35 U.S.C. §112, Second Paragraph

Claim 6 stands rejected under 35 U.S.C. §112, second paragraph. The basis for the rejection is that there is no antecedent basis of the claimed metal stearate of claim 6.

Applicants have amended claim 6 as suggested by the Examiner to depend from dependent claim 2. Applicants submit that there is now proper antecedent basis for the metal stearate of claim 6, and respectfully request reconsideration and withdrawal of this ground of rejection.

III. Claim Rejections Under 35 U.S.C. §103(a)

Claims 1-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2005/0009636 (Kuntimaddi et al.) in view of U.S. Patent Publication No. 2001/0031673 (Watanabe). For the reasons set forth below, Applicants submit this ground of rejection is improper and should be withdrawn.

U.S. Patent Publication No. 2005/0009636, from which the rejection of each claim is based, does not qualify as prior art in this case. U.S. Patent Publication No. 2005/0009636 published on January 13, 2005, and is based on an application filed on July 28, 2004 ("Kuntimaddi II"). That application is a continuation-in-part of U.S. Patent Application Serial No. 09/833,667, filed on April 13, 2001, and which published on December 12, 2002 as U.S. Patent Publication No. 2002/0187857 ("Kuntimaddi I").

Applicants have reviewed both publications and submit that the sections of Kuntimaddi II used to form the basis of this rejection were not contained in Kuntimaddi I. The sections relied upon by the Examiner, i.e., ¶¶ 0263, 0275, to reject the claims were added in the Kuntimaddi II application. Therefore, the filing date of Kuntimaddi II, July 28, 2004, is the date for prior art purposes. Applicants have submitted herewith a copy of Kuntimaddi I for the Examiner's review.

Applicant's Provisional Application filing date is January 22, 2003, approximately a year and a half before the Kuntimaddi II filing date. Since Kuntimaddi II, which forms the basis of rejection for claims 1-15 of the present application, does not qualify as prior art, the rejection based on 35 U.S.C. §103(a) is improper. Therefore, Applicant's respectfully request reconsideration and withdrawal of this ground of rejection.

IV. Conclusion

Applicant's respectfully request reconsideration and withdrawal of each ground of rejection in the Office Action.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

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